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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-094]

Refillable Stainless Steel Kegs from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of refillable stainless steel kegs (kegs) from the People's Republic of China (China). For information on the estimated subsidy rates, *see* the "Final Determination" section of this notice.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-1395.

Background

Commerce published the *Preliminary Determination* on April 5, 2019.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public

¹ *See Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 13634 (April 5, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

² *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation is January 1, 2017 through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are kegs from China. For a full description of the scope of the investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in April 2019, Commerce verified the subsidy information reported by Ningbo Master International Trade Co., Ltd. (Ningbo Master). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Ningbo Master.

Use of Adverse Facts Available

In making this final determination, Commerce relied, in part, on facts available and, because the Government of China (GOC) and a respondent company did not act to the best of their abilities in responding to Commerce's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available, pursuant to section 776(a) and (b) of the Act. For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of our findings at verification and the comments received, we have made certain changes to the subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances, in Part

Commerce preliminarily determined that critical circumstances existed with respect to imports of kegs from China for the 19 companies to which we are applying Adverse Facts Available (AFA) because they did not act to the best of their ability to respond to Commerce's requests for information, but that critical circumstances did not exist for Ningbo Master or from all other producers/exporters of subject merchandise.³ We invited parties to provide comments on this determination. However, no parties submitted comments regarding our preliminary critical circumstances finding. Therefore, for this final determination, we continue to find that critical circumstances exist with respect to subject merchandise produced or exported by the 19 AFA companies but not with respect to Ningbo Master or to all other producers/exporters.

³ *See Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination, in Part, of Critical Circumstances in the Countervailing Duty Investigation*. 84 FR 25748 (June 4, 2019) (*Critical Circumstances Preliminary Determination*).

All-Others Rate

In accordance with section 705(c)(5)(A)(i) of the Act, for companies not individually examined, we apply an all-others rate, which is normally calculated by weighting the subsidy rates of the mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act.

In this investigation, Commerce is assigning rates based entirely on AFA for the second mandatory respondent Penglai Jinfu Stainless Steel Products (Penglai Jinfu) and 18 companies that failed to respond to our quantity and value (Q&V) questionnaire.⁴ Commerce calculated an individual estimated countervailable subsidy rate for Ningbo Master International Trade Co., Ltd. (Ningbo Master) and its cross-owned affiliates Tomorrow Industrial Limited (Tomorrow Industrial), Ningbo Major Draft Beer Equipment Co., Ltd. (Ningbo Major), and Zhejiang Major Technology Co., Ltd. (Major Technology). Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, we are assigning the rate calculated for Ningbo Master to all other producers and exporters.

Final Determination

We determine the countervailable subsidy rates to be:

⁴ Commerce issued Q&V questionnaires to 20 companies. The 18 companies that did not respond to our Q&V questionnaire are: Equipmentines (Dalian) E- Commerce Co., Ltd.; Jinan HaoLu Machinery Equipment Co., Ltd.; NDL Keg Qingdao Inc.; Ningbo Direct Import & Export Co., Ltd.; Ningbo Hefeng Container Manufacture Co., Ltd.; Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.; Ningbo HGM Food Machinery Co., Ltd.; Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.; Ningbo Sanfino Import & Export Co., Ltd.; Ningbo Shimaotong International Co., Ltd.; Ningbo Sunburst International Trading Co., Ltd.; Orient Equipment (Taizhou) Co., Ltd.; Qingdao Henka Precision Technology Co., Ltd.; Shandong Tiantai Beer Equipment; Sino Dragon Trading International; Wenzhou Deli Machinery Equipment Co.; Wuxi Taihu Lamps and Lanterns Co., Ltd.; and Yantai Trano New Material Co., Ltd.

Company	Net Subsidy Rate (Percent)
Equipmentines (Dalian) E- Commerce Co., Ltd.	145.23
Jinan HaoLu Machinery Equipment Co., Ltd.	145.23
NDL Keg Qingdao Inc.	145.23
Ningbo Direct Import & Export Co., Ltd.	145.23
Ningbo Hefeng Container Manufacture Co., Ltd.	145.23
Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.	145.23
Ningbo HGM Food Machinery Co., Ltd.	145.23
Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.	145.23
Ningbo Master International Trade Co., Ltd.	16.21
Ningbo Sanfino Import & Export Co., Ltd.	145.23
Ningbo Shimaotong International Co., Ltd.	145.23
Ningbo Sunburst International Trading Co., Ltd.	145.23
Orient Equipment (Taizhou) Co., Ltd.	145.23
Penglai Jinfu Stainless Steel Products	145.23
Qingdao Henka Precision Technology Co., Ltd.	145.23
Shandong Tiantai Beer Equipment	145.23
Sino Dragon Trading International	145.23
Wenzhou Deli Machinery Equipment Co.	145.23
Wuxi Taihu Lamps and Lanterns Co., Ltd.	145.23
Yantai Trano New Material Co., Ltd.	145.23
All Others	16.21

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final determination or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of kegs from China, that were entered, or withdrawn from warehouse, for consumption on or after April 5, 2019, the date of the publication of the *Preliminary Determination* in the *Federal Register*. Further, as a result of our *Critical Circumstances Preliminary Determination*, we

instructed CBP to suspend liquidation of all entries of kegs from China, that were entered, or withdrawn from warehouse, for consumption on or after January 5, 2019 through April 4, 2019 (90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register* through the day prior to the date of the publication of the *Preliminary Determination*) from the 19 AFA companies. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 3, 2019. If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative CVD determination. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from China no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all

imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: October 17, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

- (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels);
- (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and
- (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Final Determination of Critical Circumstances
- V. Scope of the Investigation
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Subsidies Valuation
- VIII. Analysis of Programs
- IX. Analysis of Comments
 - Comment 1: Whether to Apply AFA to Find Producers of Stainless Steel Coil to be “Authorities”
 - Comment 2: Whether to Apply AFA to Find the Provision of Stainless Steel Coil to be Specific
 - Comment 3: Whether to Apply AFA to Find the Chinese Stainless Steel Coil Market Distorted
 - Comment 4: Whether to Use Data from the American Metal Market for Calculating Stainless Steel Coil Benchmarks
 - Comment 5: Whether to Include Import Duties in Calculating the Stainless Steel Coil Benchmark
 - Comment 6: Whether Commerce Should Use Coaster Freight Rates from Metal Expert
 - Comment 7: Whether to Apply AFA to the Provision of Electricity for LTAR
 - Comment 8: Whether Commerce Should Include Electricity Purchase from a Private Enterprise in the Benefit Calculation for the Provision of Electricity for LTAR Program
 - Comment 9: Whether Commerce Errored in the Benefit Calculation for the Provision of Electricity for LTAR Program
 - Comment 10: Whether Commerce Properly Determined that the Provision of Policy Loans is Specific
- X. Recommendation

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